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The Law Library of Congress

BY JOHN T. VANCE, JR., LAW LIBRARIAN, LIBRARY OF CONGRESS

THE Library of Congress was founded at Washington by virtue of an act, approved April 24, 1800.[1] It was provided in § 5 thereof that the sum of $5,000 be appropriated for the purchase of books for Congress. *Ex granis fit acervus.*

Despite an almost total destruction of the Library by the British in 1814, when it numbered only three thousand volumes, and the fire which destroyed more than half of its fifty-five thousand in 1851, to-day it numbers over three million volumes, besides its maps, music, and prints. There are only two libraries in the world which surpass it in numbers,—the British Museum and the Bibliothèque Nationale.

Founded primarily for the use of members of Congress it has become the Library of the nation. No national institution is so well known in our country, so admired, and, possibly, so useful. The number of those whom the Library serves has multiplied commensurately with the increase in volumes during the one hundred and twenty-five years of its existence. At the beginning, thirty-four Senators and one hundred and forty-two Representatives had access to its treasures. Now it serves not only the nation, but those nationals of many of the countries of the world who come to study within its walls. Ambassador Jusserand, stanch friend of America, expressed his admiration for the Library in the following inscription in the volume of Matthew Prior's poems donated by him to the Library before his late departure for France:

"Presented to the Library of Congress as a souvenir of a reader who, for twenty-two years, found there a richness of information, and in the personnel, an unfailing helpfulness for which he will remain ever grateful.

Jusserand.

Washington, January 10, 1925."

[1] 2 Stat. at L. 56, chap. 37 Comp. Stat. § 120, 6 Fed. Stat. Anno 2d ed. p. 304.

Having served throughout this period as a reference library for our Federal legislative body, it may be taken for granted that the gathering of an adequate law collection has been one of the principal tasks of the Librarian of Congress. How many of the three thousand volumes burned by the British in 1814 were law is not known; but from the bibliographical programme outlined by President Thomas Jefferson in 1802,[2] "law and the law of nature and nations" played no small part in the first collection.

Jefferson, the ardent friend of the Library of Congress from its foundation, offered his own private library of seven thousand volumes to the government in 1814, at a price agreeable to Congress, and after considerable opposition it was purchased at a cost of $23,950. The law books in this collection served as a foundation for the Law Library of Congress. The Sage of Monticello himself wrote in a letter to the Librarian in 1815:[3]

"Thus the law having been my profession and politics the occupation to which the circumstances of the time in which I have lived called my particular attention, my provision of books in these lines, and in those most nearly connected with them, was more copious."

The Library Committee reported to the Senate on January 6, 1817, that the collection of law books then in the Library was as valuable and as complete as it was possible to expect it to be, considering the time when the books were purchased. Nevertheless, the recommendation of the Committee that $3,000 be appropriated for the completion of the Law Department of the Library was not adopted;[4] nor did the plans for a law and other departments, elaborated by the authorities of the Library between the years 1815 and 1817, meet with any success.

The Supreme Court did not have access to the Library until 1812. In that year a joint resolution of the two Houses conferred upon our highest court the privilege of using the Library.[5] On the same day, March 2d, the Supreme Court acknowledged the favor in a letter from the Chief Justice.

"It is a favor," Ben Perley Poore says in his Reminiscences, "which Chief Justice Marshall prized very highly. He liked to wait upon himself, rather than to be served by the Librarian, and one day, in taking a law book from the upper shelf of an alcove, he pulled down a dozen ponderous tomes, one of which struck him on the forehead with such force that he fell prostrate. An assistant librarian who hastened to the old gentleman's assistance, found him slightly stunned by the fall, but he soon recovered and declined to be aided to his feet, saying, with a merry twinkle in his eye, 'I've laid down the law out of the law books many a time in my long life, but this is the first time they have laid me down.' And he remained seated upon the floor, surrounded by the books which he had pulled down, until he found what he sought and made a note thereof."[6]

Among the most loyal champions of the Library of Congress in the early part of the 19th century was Edward Everett, a member of the Library Committee between 1825 and 1829. In Story's Life and Letters,[7] we have an example of both

[2] See Johnston's History of the Library of Congress p. 36.
[3] See Johnston's History of the Library of Congress, p. 144.
[4] Id. pp. 157, 158.
[5] 2 Stat. at L. p. 786.
[6] See Johnston's History of the Library, p. 57.
[7] 1 Story, Life & Letters, p. 496.

of those famous men's interest in the Library, expressed in a letter dated November 4, 1826, from Judge Story to Everett, wherein he said:

"I entirely agree with you respecting the civil law books to be placed in the Congress Library. It would be a sad dishonor for a national library not to contain the works of Cujacius, Cinnius, Heineccius, Brissonius, Voet, etc. They are often useful for reference, and sometimes indispensable for a common lawyer. How could one be sure of some nice doctrines in the civil law of Louisiana without possessing and consulting them? What is to become of the laws of Florida without them?"

Everett also wrote the Librarian (Watterston) on the same subject on the 23d of May, 1828, reminding him that it was the wish of the Committee of the Library to have completed the laws and law reports of each state.

Due to such interest taken by the Library Committee and other special pleaders for the cause of the Library collection, it was considered to be more nearly in a satisfactory state than the main collection of that time. It still remained a part of the main collection, despite the efforts of Congressman Charles A. Wickliffe, of Kentucky, who presented three separate resolutions between 1826 and 1830, directing the Library Committee to inquire into the expediency of separating the law books from the rest of the Library and placing them under the control of the Supreme Court, all of which failed to pass. Wickliffe's perseverance brought down the irony of the "National Journal" in an editorial, following his last resolution, when, after accusing him of trying to emasculate the Library, it was said:

"Mr. Wickliffe does not seem to have any peculiar penchant for any other reading than that of law, and one would think his inclination might be amply indulged during the session, by the access he has to the fine Law Library of Congress and the facilities which the knowledge of its present keeper is so well calculated to afford." [8]

But Wickliffe's insistence was soon rewarded, and on July 14th, 1832, Congress passed an act[9] directing the Librarian to place the law collection in a conveniently accessible room nearby, and, in accordance therewith, a room north of the main Library was fitted up for the use of the Law Library. Here it stayed until 1843, when it was removed to an apartment on the west side of the basement of the north wing of the Capitol, near the Supreme Court room. By the same act the Justices of the Supreme Court were given a measure of control over the Law Library. It was in this act that the provision was made that the Librarian should make the purchases of the books for the Law Library under such direction and pursuant to such catalogues as should be furnished him by the Chief Justice of the United States. This provision persists throughout all the appropriation bills to this day, although long since this duty has been performed by the Librarian of Congress.

The Supreme Court moved to the present quarters soon after the Senate had vacated them in 1859. The chamber vacated by the Court was assigned for use as a law library, where a part of the collec-

[8] Johnston's History of the Library of Congress, p. 249.

[9] 4 Stat. at L. 579, chap. 221, Comp. Stat. § 119, 6 Fed. Stat. Anno. 2d ed. p. 304.

tion still remains. This chamber is popularly known as the Supreme Court Library, though it is actually a part of the Law Library of Congress. No room of the Capitol is more enticing to the lover of American history than this one. The history of the United States, says Warren, has been written, not merely in the halls of Congress, in the executive offices, and on the battle fields, but to a great extent in the chambers of the Supreme Court of the United States.[10] Of this historic chamber, Ben Perley Poore says in his Reminiscences:[11]

"It has an arched ceiling supported by massive pillars that obstruct the view, and is very badly ventilated. But it is rich in traditions of hair powder, queues, ruffled shirts, knee breeches, and buckles. Up to that time no Justice had ever sat upon the bench in trousers, nor had any lawyer ventured to plead in boots or wearing whiskers. Their Honors, the Chief Justice and the Associate Justices, wearing silk judicial robes, were treated with the most profound respect. When Mr. Clay stopped, one day, in an argument, and, advancing to the bench, took a pinch of snuff from Judge Washington's box, saying, "I perceive that your Honor sticks to the Scotch," and then proceeded with his case, it excited astonishment and admiration. "Sir," said Mr. Justice Story, in relating the circumstances to a friend, "I do not believe there is a man in the United States who could have done that but Mr. Clay."

In this sanctum sanctorum of the American Temple of Justice were heard the eloquent arguments of Clay, Calhoun, Webster, Wirt, Rush, and many other famous advocates, and here were decided the celebrated cases of M'Culloch v. Maryland, Dartmouth College v. Woodward, Cohen v. Virginia, Gibbons v. Odgen, Craig v. Missouri.

In the act of 1832, a lump sum of $5,000 was appropriated for the purchase of law books, and a further annual sum of $1,000 for the period of five years to be expended for such purpose. The Library Committee had already, on January 9, 1830, adopted a resolution recommending that all superior court reports and laws of the several states of the Union be purchased or otherwise obtained, and on February 7, 1835, had voted "that Mr. Preston and Mr. Binney see the Chief Justice on the expediency of appointing a committee of the bar to select law books to be purchased for the Law Library." On the 30th of January, 1836, the Library Committee voted "that the Honorable Mr. Porter and the Honorable Mr. Preston be a committee to consult the Supreme Court on the subject of law books for the Law Library."[12] With another lump sum of $5,000 appropriated in 1837, and the annual appropriation of $1,000 increased to $2,000 in 1850, the Law Library "grew from a collection of 2,011 volumes (639 of which belonged to the Jefferson collection) in 1832, until at the close of this period [1864] it was considered the best and largest collection of law books in America."[13]

The increase of the Law Library has been rapid since the copyright law of 1870, placing that office under the Librarian of Congress. Aided by purchase, gifts, and exchange, the law collection has grown until, at the close of the last fiscal year, it numbered 202,483 volumes. In the annual reports of the Librarian of Congress, the law

[10] Warren's The Supreme Court in United States history, opening sentence.
[11] P. 85.
[12] Johnston's History of the Library, p. 251.
[13] Ibid.

accessions are distributed under two heads, viz: The main library and the conference library. The conference library, consisting of about 16,500 volumes, is located in the conference room of the Supreme Court, and is for the exclusive use of the Justices. Besides this, a small collection, known as the "Judges' sets" (about 6,000 volumes), is distributed at the residences of the several justices for their individual use.

In 1902, when the Law Library had reached a total of 95,000 volumes, on account of a lack of space in the old chamber at the Capitol, a large number of the older treatises and all foreign law tomes, except British, were transferred to the Library of Congress, and thereafter the practice has been to keep at the Capitol a working library of about 40,000 volumes, comprising the reports of the Supreme Court, state courts, English court reports, Federal court reports, the various reporter systems, collected cases, the more modern American and English treatises, encyclopedias, digests, compilations, codes, statutes, and the recent law periodicals. This collection is intended for the use especially of Congress and for the bench and bar of the Supreme Court and court of claims, although it is also open to the bench and bar of the courts of the district.

The more voluminous portion of the law collection, consisting of Anglo-American treatises, British colonial, foreign, Roman, and ecclesiastical law, is now on the decks of the Library building. The Law Library, known in the main organization as the Law Division, has as its office the Northeast Pavilion, the handsomely decorated and spacious seal room of the Library of Congress. From this point the work of the Law Library is administered. Here is located the card catalogue of the entire law collection, and here requests are received, by telephone, on printed forms, and by personal application, for law tomes of every class and jurisdiction. Books are despatched to the Capitol by the Electric subterranean carrier, and trucks go twice a day to the executive departments and bureaus of the government, courts and foreign embassies, for the delivery and return of loans. A reference collection is also maintained in the main reading room for the readers who come to the Library, and many rare volumes are maintained under lock and key, only to be used at the readers' desks in the office of the Law Library in the Northeast Pavilion.

From the acquisition of the Jefferson collection until 1900 the Baconian system of classification, suggested by Jefferson himself to the then Librarian of Congress, George Watterston, was used throughout the Library. Under this system municipal jurisprudence was subdivided into domestic and foreign, the former being further subdivided into equity, common law, law merchant, law maritime, and law ecclesiastical, and foreign into foreign law merely. A more modern and workable system, devised under the direction of the Librarian of Congress, Herbert Putnam, has been gradually put into effect until it embraces the entire library with the exception of the books that are strictly law material. Thus, international law, constitutional law, the law as touching economics, i. e., banking,

financial, labor legislation, etc., and the laws of marriage and divorce, etc., are classified under this system, and such material is distributed throughout the Library accordingly.

The general scheme of classification of legal material as it is arranged on the shelves by country is as follows: Session laws, revisions and compilations of laws, codes, court reports, digests, treatises, and miscellaneous. In separate groups are included: Periodicals, encyclopedias, dictionaries, directories, bar associations and societies, trials, canon law, ancient law, and Roman law. The system in vogue is by no means scientific, and yet, inasmuch as the catalogue carries subject headings as well as authors and titles, it is exceedingly rare that any difficulty is had in locating the volumes once they are on the shelves.

Perhaps few members of the American bar realize the wonderful store of legal lore that is contained in the Law Library of Congress. The numbers speak for themselves when it is considered that, with a beginning of 639 volumes of the famous Jefferson collection, the collection now totals well over 200,000; but to the student of jurisprudence quality means more than mere numbers. What satisfaction our bench and bar, as well as citizens in general, must feel when they know that their national Library possesses not only a remarkable collection of the sources of our common law, but an almost complete collection of our own American jurisprudence, and good collections of civil law, Roman law, canonical law, and working collections of the laws of every country in the world!

This unique collection, belonging to the American people, comprises many rare and irreplaceable legal relics, including a fairly representative number of incunabula (150 titles), the Year Books, first editions, early session laws of the colonies, both in manuscript and printed form, as well as the last word of every court of last resort of the American Union. Not the least useful and interesting is a complete set of the briefs and records of the Supreme Court of the United States, covering volumes 1 to 266. The size of this collection may be imagined when it is known that one case covers as much space as three times the famous shelf of Dr. Eliot.

Especial attention has been paid to completing the Latin American collection during the past ten years, and much material has been obtained. During the last year more than two thousand volumes were added to the Mexican law collection alone, after a special visit by a representative of the Librarian, to that country.

The collections are not without their lacunæ, however. Here and there an American colonial act is wanting, some of the Year Books and earlier English law books still remain to be acquired, and the collections of the continental system should be augmented considerably. Many treasures are constantly coming to America from Europe, but comparatively few find their way to the Library of Congress, which naturally cannot compete in the market with the universities and private collections. When the University of Texas acquired the García library of 4,000 volumes, it paid for that collection alone $100,000,—as much as Congress annual-

ly appropriates for the increase of the Library. Columbia University only last year acquired a European collection of law books consisting of 20,000 volumes.

The Librarian of Congress made the following statement in his report of 1911:

"It is evident that for such material we must depend chiefly upon gift and bequest; and it is our hope that the time is not distant when much of it will come to us in this way. The hope should seem well founded when one considers that this is the national Library of the United States, situated at our national capital, a center for research, and a Mecca for tourists from all parts of the country, and practically all visitors from abroad. It is surely not too much to expect that owners of private collections, considering a disposition of them that will combine distinction with utility, will in time give it the preference over institutions merely local,—just as they may give the National Museum and National Gallery a similar preference where the material is within their respective fields."

Due to Dr. Putnam's advocacy of this important source of acquisition during the twenty-six years of his administration of the Library, a wealth of material has been added to the collections by gift as well as bequest. Formerly the larger gifts or bequests required individual action by Congress; but happily an act was passed and approved during the late session of Congress creating a board, known as the Library of Congress Trust Fund Board, and authorizing said board to accept, hold, and administer such gifts or bequests of personal property for the benefit of the Library, its collections or its service, as may be approved by the Board and the Joint Committee on the Library.[14]

[14] Public No. 541, 68th Congress, approved March 3, 1925.

This far-reaching action on the part of Congress promises untold good to the Library and to the nation it serves. No gift or bequest is ever too small to be made to the Library of Congress, but henceforth there is no limit either in books or money. Was there ever a gift from man to man that carried as much as a book? How much more enduring, then, is such a gift to one's country.

Sale of Liquor Causing Death

SELLING intoxicating liquor which results in the death of the buyer through acute alcoholism and exposure to cold is held in the Michigan case of State v. Pavlic, 199 N. W. 373, 35 A.L.R. 741, not to render one guilty of involuntary manslaughter in the absence of intent or carelessness manifesting a reckless disregard of human life, although the sale of intoxicating liquor is, by statute, made a felony.

This seems to be the only recent decision on the precise question of the criminal responsibility of one unlawfully furnishing intoxicating liquor for death resulting from its use. Earlier cases on the subject may be found in the annotation in 15 A.L.R. 244. The holding in State v. Pavlic is squarely in line with the general rule in the earlier annotation, to the effect that a person who unlawfully furnishes intoxicating liquor to another is not criminally responsible for death resulting from its use, unless he has notice that the liquor may be of a dangerous character and liable to cause death. It appeared in this case that the defendant, engaged in the manufacture and sale of moonshine whisky, furnished liquor to the deceased so that he became intoxicated. While returning home alone he fell by the wayside and was frozen to death.

The court illustrates its holding by a reference to those cases where one kills another while driving an automobile at an unlawful rate of speed.

Mr. Justice Stone

ON MARCH 2, Harlan Fiske Stone took the oath as an Associate Justice of the Supreme Court of the United States, thereby filling the vacancy caused by the retirement of Justice McKenna.

While there was natural regret that Attorney General Stone should have been so soon taken away from the work of the Department of Justice, where much had been expected from his industry, ability, and fearlessness, yet his eminent qualifications for the Bench are undoubted. Before his appointment to the Attorney Generalship, he had attained the highest professional standing.

During the hearings in the Jay Gould accounting proceedings, he represented the children of the Duchess de Tallyrand, the former Anna Gould. He also appeared for the Royal Card & Paper Company against the Dresdner Bank, of Berlin, his clients obtaining a verdict of $150,000. A somewhat smaller verdict was awarded the National Brass & Copper Tube Company, represented by him in the suit against the Italian government.

A notable case in which Mr. Stone took part as counsel is that of Alexander v. Equitable Life Assur. Soc. 233 N. Y. 300, 135 N. E. 509, where he succeeded in convincing the court of appeals that a sealed contract by an insurance company to pay an annuity to the widow of an officer of the company in consideration of past and future services to be performed by such officer was ultra vires and without consideration, thus reversing the decision to the contrary in 196 App. Div. 963, 188 N. Y. Supp. 908.

The last case argued by Mr. Stone before going to Washington was the De Lamar will case before the appellate division of the supreme court of New York. This will case, in which were involved many intricate questions of taxation, disposed of the estate of the late Joseph R. De Lamar, amounting to about $20,000,000.

While practising law as a member of the firm of Satterlee, Canfield, & Stone, he lectured on law at Columbia from 1899 to 1902. He became an adjunct professor in 1903, a full professor in 1905. In 1910 he was named Kent Professor of Law and Dean of the Law School.

A quality which contributed greatly to Mr. Stone's successful work in Columbia Law School, according to other members of the college faculty, is his extraordinary capacity for intellectual labor. "He can literally do three men's work," says Ralph W. Gifford, Nash Professor of Law, and

adds: "During the whole period of his deanship, Mr. Stone did as much teaching as any professor in the law school; he also disposed of the innumerable problems and details incident to his work as Dean, and, as if this were not enough, he kept in daily touch with a law practice to which he gave his time as counsel. It may be asserted with confidence that few teachers of the law have ever succeeded in doing so much and doing it so well as Dean Stone. As Dean he was subject to constant interruption, being consulted on innumerable occasions both by students and members of the faculty. A visitor would find him always hard at work; he would drop the work,—which might be the investigation of some difficult legal problem,—listen to the visitor with infinite patience and courtesy, and when the interview was over, he would resume his work as if nothing had interrupted him."

His annual reports as Dean of the Columbia Law School attracted wide attention and contained notable contributions to the discussion of legal problems.

Mr. Stone has been a frequent contributor to law journals. In a number of important cases, articles by him dealing with the law in all its ramifications have from time to time been cited in the courts.

Mr. Justice Stone goes to the Bench of our highest court with ripened powers, great ability and learning, and an infinite capacity for hard work.

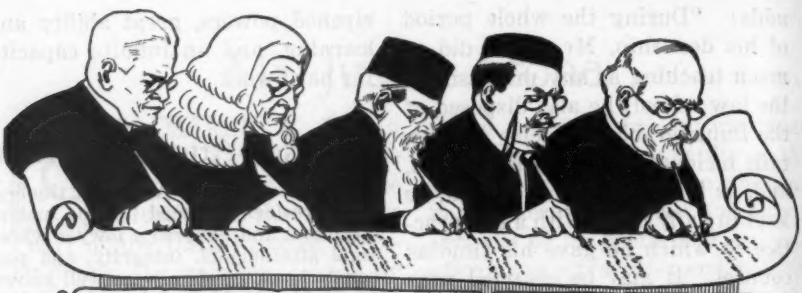
The New Attorney General

In selecting an Attorney General the President turned to his native Vermont, and honored a lawyer whose legal attainments, integrity, and personal characteristics were well known to him, and who had been his friend from boyhood.

"John G. Sargent," states the New York Times, "seems fit for the post. He is a sound lawyer of that quiet type which outland visitors to Vermont court houses know and admire. Lawyers of this sort know law with a thoroughness uncommon among the specialized business men of the law in great cities. They 'try every case for all it is worth.' They are acute. They are learned. They retain the formal courtesy that has vanished to a great extent from the modern bar. Mr. Sargent has not only had a successful civil practice, but he has been a county prosecuting officer and state attorney general; and a sometime president of Vermont Bar Association needs no other credentials among lawyers."

Mr. Sargent has occupied himself principally with the law. He is characterized by those who have opposed him in court as "one of the best lawyers in New England." He has practised in all parts of the state, and, on occasions, outside of the state.

The new Attorney General is possessed of studious tastes. Everywhere about his home are books conveniently placed. He is a man of commanding physical presence,—one who in his day played center on his college football team. He is a lover of open spaces, of the woods, hills, and streams. He is fond of fishing, hunting, and out-door activities. He appears to be well fitted by mentality, character, and temperament to be an efficient Attorney General.



Among the New Decisions

Abatement — *marriage promise as contract within meaning of statute.* A contract of marriage is held in Warner v. Allen (Warner v. Benham) 126 Wash. 393, 218 Pac. 260, not to be within the operation of a statute providing that actions founded on contract may be maintained against the personal representatives in all cases where they might have been maintained against decedents.

A note on the survival of an action or cause of action for the breach of a contract to marry is appended to this case in 34 A.L.R. 1358.

Accord and satisfaction — *check sent "in full to date."* The placing of the words "in full to date" upon a check, sent in a letter showing that it was in settlement of certain invoices, is held not to constitute its acceptance as accord and satisfaction of a dispute as to other items claimed by the creditor in Pitts v. National Independent Fisheries Co. 71 Colo. 316, 206 Pac. 571, which is followed in 34 A.L.R. 1033, by a note on acceptance of remittance by check purporting to be "in full" or accompanied by indications of debtor's intention that it be so regarded.

Appeal — *permitting jury to separate — review.* That the act of the trial judge in permitting the jury to separate in a homicide case will not be reviewed on appeal unless it appears affirmatively that prejudice resulted to accused, is held in McHenry v. United States, 51 App. D. C. 119, 276 Fed. 761, annotated in 34 A.L.R. 1109, on separation of the jury in a criminal case.

Bankruptcy — *recovery of money paid for intoxicating liquor.* Money paid by an insolvent for intoxicating liquor after the Federal Prohibition Act had made such proceeding a crime may, it is held in Geary v. Schwem, 280 Pa. 435, 124 Atl. 630, be recovered by the trustee in bankruptcy as an avoidable preference, although the vendor was unaware of the insolvency, and there was no intention to give a preference, or hinder, delay, or defraud creditors.

The right of a creditor or of one representing him to recover money paid or property transferred by a debtor on an illegal consideration, is the subject of the note which follows this case in 34 A.L.R. 1294.

Bills and notes — *provision for accelerating payment — effect.* A written promise for payment of money in ordinary terms of negotiability, containing certain additional clauses for the acceleration of the due date upon the happening of special events solely within the control of the maker, or not within the control of any party to

the paper, is held not to be rendered non-negotiable by such stipulations, in the Idaho case of McCornick & Co. v. Gem State Oil & Products Co. 222 Pac. 286, annotated in 34 A.L.R. 867, on acceleration provision as affecting negotiability.

Carriers — *contract to collect at destination — validity.* That a carrier cannot bind itself to collect at destination and refund to shipper freight which it has required him, under its tariff schedules, to prepay, is held in Pennsylvania R. Co. v. Hamilton Coal Co. 144 Md. 556, 125 Atl. 405, annotated in 35 A.L.R. 478.

Checks — *effect of noting name on face.* The mere noting on the face of a check drawn to the order of one person, of the name of the one entitled to the proceeds, is held in Mills v. Hayden, 128 Wash. 67, 221 Pac. 994, not to constitute an infirmity so as to require one cashing it for the payee to show his good faith in order to be able to enforce the check against the drawer.

The question of memoranda or notations on paper as affecting one's character as a holder in due course is treated in the note appended to this case in 34 A.L.R. 1372.

Damages — *eminent domain — improvements.* That a railroad company which enters lawfully upon land and improves it in good faith may exclude the value of improvements in proceedings brought thereafter to condemn a hostile right, is held in New York, O. & W. R. Co. v. Livingston, 238 N. Y. 300, 144 N. E. 589, annotated in 34 A.L.R. 1078.

Damages — *liquidated — when not enforced.* That a contract for liquidated damages will not be enforced where no damage whatever has been sustained, is held in Rispin v. Midnight Oil Co. 291 Fed. 481, annotated in 34 A.L.R. 1331.

Damages — *measure — breach of contract to deliver stock.* The measure of damages for breach of a contract to pay a specified sum in stock in consideration of services rendered is held to be the value of the stock at the time it should have been delivered, in Clemmer v. Merriken, 144 Md. 675, 125 Atl. 394, annotated in 34 A.L.R. 928, on measure of damages for the breach of a contract to pay a specific sum in stock, notes, bonds, or other securities.

Ejectment — *right of lessee.* A demise of land for a specified term for the purpose of prospecting and mining for oil, gas, and mineral, with a right to use the surface needed, and undertaking to begin operations within a fixed time after date, is held to convey an interest in the land which will support ejectment, in Ewert v. Robinson, 289 Fed. 740, which is accompanied in 35 A.L.R. 219 by a note on the right of the owner of an interest in mineral in situ to maintain ejectment.

Equity — *jury — mortgage foreclosure — full relief.* Where a court of equity acquires jurisdiction for the foreclosure of a mortgage, it is held in the New Mexico case of Young v. Vail, 222 Pac. 912, that it may retain jurisdiction for the administration of full relief, both legal and equitable, and, as a part of such relief, may render a deficiency judgment, and the parties have no right to a jury for the trial of that issue.

A note on the power of equity in the absence of statute to render a deficiency judgment in a foreclosure action, is appended to this case in 34 A.L.R. 980.

Estoppel — *of executor to contest provision as to compensation.* That an executor cannot accept his appointment and reject the condition as to compensation upon which it is made, is held in Washington Loan & T. Co. v. Protestant Episcopal Church, 54 App. D. C. 14, 293 Fed. 833, which is

followed in 34 A.L.R. 913, by a note on the validity and effect of a provision in the will limiting the amount of fees of an executor or trustee.

Evidence — *admission of guilt — by third person.* Evidence of admission of guilt of a homicide by one possessing motive and opportunity to commit it is held to be admissible upon trial of another for the crime, in Hines v. Com. 136 Va. 728, 117 S. E. 843, which is followed in 35 A.L.R. 431, by a note on the admissibility in favor of the accused in a criminal case of an extrajudicial confession by a stranger.

False pretenses — *obtaining money on worthless check.* One who obtains from a bank depositor a check with knowledge that it greatly overdraws his account, and, after payment is refused by the drawee because of lack of funds, induces another bank to cash it by false representations concerning it, is held to be guilty of working the confidence game, in People v. Mutchler, 309 Ill. 207, 140 N. E. 820, annotated in 35 A.L.R. 339, on false pretense or confidence game through means of a worthless check or draft.

Incompetent persons — *effect of absence of consideration to insane person.* The rule that the bona fide contract of an insane person is voidable only where the parties can be placed in statu quo is held in the Missouri case of Doty v. Mumma, 264 S. W. 656, to be subject to the exception that, where the insane person has not received the benefit of the consideration, the contract will be set aside without a return of the consideration, although it was made in good faith before an adjudication of insanity.

Restoration of the status quo as a condition of the avoidance of a suretyship or accommodation contract of an incompetent is treated in the note appended to this case in 34 A.L.R. 1399.

Insurance — *benefit of remainderman.* Insurance taken by a life tenant on buildings in which there is an interest in remainder is held not to inure to the benefit of the remainderman in Thompson v. Gearheart, 137 Va. 427, 119 S. E. 67, annotated in 35 A.L.R. 36.

Insurance — *effect of irresistible impulse.* That an insured kills himself because of an irresistible impulse which deprives him of ability to govern his actions is held not to avoid the effect of a provision in the policy that there shall be no recovery in case of suicide, sane or insane, in National L. Ins. Co. v. Watson, 194 Ky. 355, 239 S. W. 35, annotated in 35 A.L.R. 156, on insanity as affecting the applicability of a "suicide" clause, with the words "sane or insane" in a life insurance contract.

Insurance — *passenger in side car of motorcycle.* A passenger in a side car of a motorcycle is held not to be within a provision in an accident insurance policy that it shall not cover injuries received "while riding a motorcycle," in Silverstein v. Commercial Casualty Ins. Co. 237 N. Y. 391, 143 N. E. 231, annotated in 35 A.L.R. 32, on the scope and effect of a specific provision in an accident insurance policy relating to an accident in connection with a motorcycle or automobile.

Judgment — *lien — estate by entirety.* A judgment against husband and wife jointly is held to be a lien on an estate held by them by entireties, in Martin v. Lewis, 187 N. C. 473, 122 S. E. 180, annotated in 35 A.L.R. 144.

Malicious prosecution — *liability of prosecuting attorney.* That the prosecuting attorney is not liable for malicious prosecution of a criminal action where the determination of the question whether or not to prosecute is within his official authority, is held in the Oregon case of Watts v. Gerking, 228 Pac. 135, annotated in 34 A.L.R. 1489.

A PURPOSE

on and Some Unusual Legal Terms

HORIZONTAL

by notes.
buy law books.
pronoun.
Latin).
the Reporter System (abbr.).
peals (abbr.).
for the ankle.
unit of the Ann. Repts. System See Page 60.
glish King's Bench Reports (abbr.).
uling Cases (abbr.).
easure.
Reports (abbr.).
Carriers (abbr.).
bbr.).
possession of the U. S. (abbr.).
hat (Latin).
State Reports (abbr.).
interested in a suit.
ced.
Annotated Reports System does library problems.
Annotated Reports System solves.
anted by law schools (abbr.).
bbr.).
vice" Edition of U. S. Reports See No. 4 on Page 60.
Latin).
ame (abbr.).
's best rating.
ody that made a European trip mer (abbr.).
itle.
weight of one pound.
unit of Lawyer's Reports Annobbr.).
of our Lord (abbr.).
k hat (slang).
nit of the Annotated Reports Sys-r.). See page 60.
a suit (Latin).
a legal duty.
cial hymenopterous insect.
(abbr.).
trial.
ent necessary to the prosecution rofession.

VERTICAL

1. Logical synopsis.
2. Negation.
3. A point of the compass.
4. Preposition.
5. A diving bird of northern seas.
6. Excel.
7. To name.
8. The result of excessive use of liquor (abbr.).
9. A large lake in North America.
10. A misfortune.
11. Nova Scotia Reports (abbr.).
12. Chosen as being most fit.
16. A legislative enactment.
19. A body of men sworn to render their true verdict according to the adduced evidence.
22. What a child first learns.
23. The second unit of the Annotated Reports System (abbr.). See page 60.
24. The last unit of the Annotated Reports System (abbr.). See page 60.
25. The legal profession.
26. Affirmative.
30. Assist.
34. Prefix meaning through.
35. To set in opposition.
38. Questionable.
39. The Egyptian Sun God.
40. A young owl.
41. To be ill.
42. To regret extremely.
44. A masculine title of address (abbr.).
46. Free from danger.
47. Solicitor at Law (abbr.).
48. Arts Degree (abbr.).
49. To jumble type.
50. Trustworthy.
51. Guided.
52. Conserves.
54. Clarity.
57. The predecessor of A.L.R. See unit two of Annotated Reports System, page 60.
58. Deady's United States District Court Reports (abbr.).
59. Adjective descriptive of the cases cited in R. C. L.
60. Freedom from risk.
66. Without (Latin).
67. Catnip (plural).
68. The precise subject of discussion.
71. Rubidium (abbr.).
73. The (French plural).
74. Epochs.
75. Compensation paid for the use of property.
76. To quote for argument or exemplification.
78. To relate.
84. Before Christ (abbr.).
85. Concerning (Latin).

Name — *pleading — married woman.* In law, a married woman's name is held in the Minnesota case of Brown v. Reinke, 199 N. W. 235, to consist of her Christian name and her husband's surname, the prefix "Mrs." being a mere title. If ignorant of her name, the plaintiff in an action against a married woman should allege that fact, and when her true name is ascertained, it should be substituted for the name by which she was sued.

The correct name of a married woman is considered in the note which follows this case in 35 A.L.R. 413.

Newspapers — *public regulation.* Newspapers are held not generally affected with a public interest in the Massachusetts case of Com. v. Boston Transcript Co. 144 N. E. 400, so as to stand on a less favorable ground with respect to statutory regulation than ordinary persons.

The constitutionality of statutes regulating newspapers or magazines is treated in the note appended to this case in 35 A.L.R. 1.

Nuisances — *filling station.* While a public filling station, used to serve automobiles, trucks, etc., with gasolene and oil, is not a nuisance per se, still it may be so operated as to be a public or private nuisance, and, if so operated, it is held that it may be enjoined to the extent of abating the nuisance in the Mississippi case of National Ref. Co. v. Batte, 100 So. 388, annotated in 35 A.L.R. 91.

Postoffice — *exclusion of correspondence of lucky stone business.* The mere sale of lucky stones, without any false or fraudulent representations as to their powers, is held not to be so fraudulent that correspondence with respect to the business can be excluded from the mails, in Hurley v. Dolan, 297 Fed. 825, annotated in 34 A.L.R. 1289, on use of mails for sale of articles having superstitious associations.

Principal and agent — *powers — authority to sign note as surety.* A power of attorney conferring authority to attend to all of the affairs of the donor, to sign checks, and execute any notes deemed necessary in connection with the affairs of the donor, and transact all his business, is held not to include power to sign another's note as surety in Clinton v. Hibbs, 202 Ky. 304, 259 S. W. 356, annotated in 35 A.L.R. 462.

Receivers — *right to sell right to redeem from foreclosure.* That a general receiver of an insolvent corporation may be authorized to sell the corporation's right to redeem from a sale of its property under mortgage foreclosure, is held in State ex rel. Geary v. Frater, 125 Wash. 432, 216 Pac. 839, annotated in 35 A.L.R. 261.

Taxes — *exemption of Young Men's Christian Association.* A Young Men's Christian Association, incorporated to promote the moral, physical, and educational welfare of young men, and supported in large part by voluntary contributions from the public, which in its practical work, as outlined in the opinion, actually carries out those purposes by a system of moral, physical, religious, and educational training and influence for the betterment of its members and the general benefit of the community, is a charitable organization, and its building, in so far as it is actually and necessarily used for those purposes, is held to be exempt from taxation under Neb. Rev. Stat. 1913, § 6301, in Y. M. C. A. v. Lancaster County, 106 Neb. 105, 182 N. W. 593, annotated in 34 A.L.R. 1060, on exemption from taxation of the property of a Y. M. C. A. or Y. W. C. A.

Trover and conversion — *sale by agent without authority — failure promptly to discover wrong.* Failure of an owner of goods in storage promptly to discover the wrongful act of his agent, who, without authority to sell, sells and delivers a portion of

the goods to a stranger, and to notify the purchaser of the wrongdoing, is held not to prevent him from holding the purchaser liable for the value of the converted property, in Dixie Guano Co. v. Wessel, 296 Fed. 433, which is followed in 35 A.L.R. 322, by a note on the duty of a principal to discover and notify third persons of the wrongful disposal of property by an agent not assuming to act for the principal.

Trusts — *constructive — when arise.* A trust by construction of law is held to arise in Jasinski v. Stankowski, 145 Md. 58, 125 Atl. 684, when the conveyance of property is fraudulently procured by the grantee upon the faith of a parol trust agreement which is subsequently repudiated.

A note on grantee's oral promise to grantor as giving rise to a trust, is appended to this case in 35 A.L.R. 275.

Trusts — *receipt of trust funds in gaming transactions.* A broker who receives trust funds from a customer to be used in gambling transactions is held to become himself a trustee for the amount received, in Glasgow v. Nicholls, 124 Wash. 281, 214 Pac. 165 annotated in 35 A.L.R. 419 on accountability to the owner of one who receives funds for a "bucket shop" transaction from a third person acting without authority.

Vendor and purchaser — *action for purchase price — necessity of tender of deed.* Tender of a deed is held in Walker v. Hewitt, 109 Or. 366, 220 Pac. 147, annotated in 35 A.L.R. 100, not to be a condition to recovery on a note given for the purchase price of real estate where the contract binds the vendor to make the deed if the purchaser shall first make payment.

Vendor and purchaser — *rescission of title — surrender of possession.* A vendee is held not entitled to rescind an executory contract for sale of real estate on account of defect of title while he remains in possession, in Sheehan v. McKinstry, 105 Or. 473, 210 Pac. 167, annotated in 34 A.L.R. 1315.

Wills — *construction — divorced man as surviving his wife.* A man divorced from his wife is held not to be her survivor in Re Rosecrantz, 183 Wis. 643, 198 N. W. 728, within the meaning of a will providing for termination of a trust in his favor, and payment to him of his share of the estate, should he survive his wife.

Divorce as equivalent of death for the purposes of a provision in a will or trust in respect of survivorship as between husband and wife, is the subject of the note appended to this case in 35 A.L.R. 139.

Wills — *duty of attesting witness.* The attesting witnesses to a will must not only witness the signing and publishing of it by the testator, but it is also held to be their duty to satisfy themselves that testator is of sound and disposing mind and memory, and capable of executing a will, in Smith v. Young, 134 Miss. 738, 99 So. 370, annotated in 35 A.L.R. 69.

Wills — *"lending" to one and his lawful heirs — extent of estate.* Under a will "lending" property to a son for life and after his death giving the property unto the lawful heirs of the son, and, if he should die without a bodily heir, then back into testator's family, the son is held in Hampton v. Griggs, 184 N. C. 13, 113 S. E. 501, to take only a life estate, since the devise to his lawful heirs means children, and the rule in Shelley's Case does not apply.

A note on the construction of the words "lend" or "loan" in a deed or will, accompanies this case in 34 A.L.R. 952.

Wills — *abatement of legacies — rule of preference.* Although generally legacies abate pro rata if the estate is not sufficient to pay all, yet, if a legacy is given for the support, maintenance, or education of a near relative otherwise unprovided for, it is held in Re Nelson, 238 N. Y. 138, 144 N. E. 481, that it will be preferred.

Preferences among general legacies as regards abatement, are treated in the note which accompanies this case in 34 A.L.R. 1245.

Recent British Cases

Automobiles — *driving while under influence of liquor — right to convict where car not started.* That one was not "driving" an automobile, and could not be convicted under a statute providing that any person proved to be under the influence of intoxicating liquor "while driving a motor car" shall be liable to a penalty was held in Doyle v. Harvey [1923] Vict. L. R. 271, 12 B. R. C. —, where the accused's car was standing in the street and he entered it and started the engine, but was prevented from setting the car in motion by the intervention of a policeman, who charged him with being under the influence of intoxicating liquor while driving an automobile. The question of what constituted a violation of statutes or ordinances against driving an automobile while intoxicated is covered in the note accompanying this case in 12 B. R. C. —.

Automobiles — *defective condition — liability for damages resulting.* The mere breach of a regulation providing that "the motor car and all the fittings thereof shall be in such a condition as not to cause, or be likely to cause, danger to any person on the motor car or any highway," which was passed under authority of a stat-

ute providing a penalty for a breach of any regulation, is held in Phillips v. Britannia Hygienic Laundry Co. [1923] 1 K. B. 539, 12 B. R. C. —, not to render the owner of an automobile liable for damage to another vehicle, resulting when a wheel, owing to a defective axle, came off the automobile, which had recently been repaired. This case is accompanied in 12 B. R. C. —, by a note as to the effect of a defect in an automobile on liability for injury.

Nuisance — *buildings — liability for structural damages from vibration.* The defendant company which, while preparing a site for a large building in the heart of a city, drove a large number of piles in the soil and thereby set up a heavy vibration and caused serious structural damage to an old house belonging to the plaintiffs, with the result that the greater part thereof had to be taken down in compliance with a dangerous structure notice, was held in Hoare & Co. v. McAlpine [1923] 1 Ch. 167, 12 B. R. C. —, liable for the damage, even if, as was alleged, the plaintiff's house was in an abnormally unstable condition, since the defendant was responsible as an insurer for all damage caused by the escape of the vibration it had created. The question of liability for damage to adjoining property from concussion, vibration, or jarring is covered in the note appended to this case in 12 B. R. C. —.

Slander — *words imputing violation of liquor law — necessity of showing special damages.* That a complaint alleging that the defendant at a public political meeting said that the plaintiff "was given four bottles of whisky which he took to the convention and gave to the men there to carry the votes" states no cause of action for slander is held in McDonald v. Mulqueen, 53 Ont. L. Rep. 191, 12 B. R. C. —, where there is no innuendo, and no allegation of special damages, since it could not be found that the charge was a violation of the Carriage of Liquor Act, and since although the words spoken might be found to change a violation of the Ontario Temperance Act, such violation was punishable in the first instance only with a money penalty. The question as to what words imputing a violation of liquor law are actionable as libel or slander is treated in the note appended to this case in 12 B. R. C. —.

Wills — *what constitutes signing at "foot or end."* That a will was not signed at the "foot or end thereof" as required by statute is held in Re McCarthy [1922] Vict. L. R. 216, 12 B. R. C. —, where the document which was partly printed and partly written in testator's handwriting, consisted of a single sheet of paper folded bookwise, so that it might be said to consist of four pages, and on the first page the testator's name appeared after the words "This is the last will and testament of me," and after his name and following the printed words "I give devise and bequeath unto," were a number of dispositive clauses, the last being incomplete, and immediately below this was a clause appointing an executor, which was followed by a testimonium clause, filled in and signed by the testator, after which was an executed attestation clause, and following the second page, which was blank, the sentence on the first page was completed on the third, on which an executor was again appointed, and further directions and dispositions made, and on the fourth page, partly written and partly printed was a date, and the words "Will of John Patten McCarthy." This case is accompanied in 12 B. R. C. —, by a note as to what constitutes compliance with statute requiring a will to be signed "at foot or end."

A.L.R. Annotations in Volumes 34 and 35 Include Notes on the Following Subjects:

Automobiles — Civil rights and liabilites as affected by failure to comply with regulations as to registration of automobile or licensing of operator. 35 A.L.R. 62.

Automobiles — Liability for injuring one engaged about an automobile in highway. 34 A.L.R. 1513.

Bankruptcy — What is an order of court within provision of Bankrutcy Act in relation to discharge. 34 A.L.R. 1407.

Carriers — Duty and liability respecting return or transportation of empty containers. 35 A.L.R. 21.

Cloud on title — Return of payments as condition of cancelation of land contract as cloud on title. 35 A.L.R. 274.

Commerce — Licensing tax on forwarding or local agency rendering services incidental to interstate shipments. 34 A.L.R. 912.

Contracts — Validity of agreement for sale of information as to claims or property rights. 34 A.L.R. 1537.

Death — Circumstances justifying inference of death of insured before the lapse of seven years from his disappearance. 34 A.L.R. 1389.

Gaming — Each bet or play at gaming on a single occasion, as constituting a distinct offense. 35 A.L.R. 89.

Damages — Cost to tenant of removing fixtures or personal property, as affecting compensation in eminent domain. 34 A.L.R. 1523.

Dower — Computation of the value of an inchoate dower right. 34 A.L.R. 1021.

Easements — Right of owners of parcels into which dominant tenement has been divided to use a right of way. 34 A.L.R. 972.

False pretenses — Construction, application, and effect of criminal statutes directed specifically against use of worthless, false, or bogus check or draft. 35 A.L.R. 375.

Foreign Law — Determination of question relating to foreign law as one of law or of fact. 34 A.L.R. 1447.

Homicide — Homicide or assault in defense of habitation or property. 34 A.L.R. 1488.

Income Tax — Rights and remedies in case of overpayment of Federal income tax. 34 A.L.R. 978.

Injunction — Validity and effect of statutes restricting remedy by injunction in industrial disputes. 35 A.L.R. 460.

Insurance — Construction of hail insurance policy. 35 A.L.R. 267.

Insurance — Insanity of insured as affecting provision against liability for death in consequence of the violation of law. 35 A.L.R. 190.

Insurance — Discrimination in fixing fire insurance rates based on the use of fire protective devices. 35 A.L.R. 218.

Joint creditors and debtors — May acts of independent tort-feasors, each of which alone causes or tends to produce some damage, be combined to create a joint liability. 35 A.L.R. 409.

Liens — Cropper's right to thresher's lien or lien for other work on share of owner. 35 A.L.R. 450.

Municipal corporations — Liability in respect of taxes derived from territory improperly annexed to municipal or political division. 35 A.L.R. 477.

Receivers — Right of invalidly appointed receiver to compensation as such. 34 A.L.R. 1356.

Sale — Warranty or condition as to kind or quality implied by sale under trade term which by use has become generic. 35 A.L.R. 249.

Street railways — Forfeiture of street railway franchise for breach of condition. 34 A.L.R. 1413.

Telegraphs — Right of telegraph company to graduate rates according to liability assumed. 35 A.L.R. 336.

Vendor and purchaser — Priority as between a purchaser of notes given under a contract for the sale of land and a mortgagee or grantee from the vendor. 35 A.L.R. 28.

Wills — Establishment of will lost before testator's death. 34 A.L.R. 1304.

Witnesses — Sexual offense by one spouse with or against third person as a crime against other spouse within statute relating to competency of husband or wife as witness against other. 35 A.L.R. 138.

Workmen's compensation — Application to employees engaged in farming. 35 A.L.R. 208.

New Books and Recent Articles

JUDICIAL CODE AND EQUITY RULES ANNOTATED. By Byron F. Babbitt. (Callaghan & Co., Chicago, Ill.) $4.50

THE CONSTITUTION OF THE UNITED STATES. By James M. Beck, LL.D., Solicitor General of the United States. (George H. Doran Company, New York) .. $2.50

Repeated printings of this scholarly treatise have attested the widespread interest which it created. It is history which presents the past with all the glow and color of the drama. It is a philosophic revelation of the spirit of the Constitution.

The origin of the Constitution of the United States, the personality and labors of the men who framed it, the lofty debates, the struggle for ratification, are subjects of undying interest to every lover of the institutions of his country. All these themes are dealt with by the author in a masterly way.

There is a wealth of thought in the chapters on the Political Philosophy of the Constitution, the Basic Principles of the Constitution, and the Balance Wheel, —the Supreme Court. Only by long study and deep reflection could the author have appraised these fundamental values so well.

But Mr. Beck does not deal wholly with the past. He touches upon the centennial celebration of the day on which the Constitutional Convention concluded its labors, and discusses the significant changes that have come with the passing years. He fears for the future of the Constitution, deplores the decay of leadership, and refers to the revolt against authority as one of the phenomena which have resulted from a mechanical civilization,—from the age of the machine. But he points out that we still have as an ideal the vision of the Fathers of the Constitution. This thought the reader will find presented in the words of Mr. Beck in the frontispiece of this number of CASE AND COMMENT.

ABBOTT'S BRIEF FOR THE TRIAL OF CRIMINAL CASES: Third edition, by James J. Barbour, of the Chicago Bar, one volume, 1925 ..... $10.00

This edition of a popular legal publication brings the work through a period of twenty-one years to date, during which time there have been marked changes and advancements in the criminal law. Many new decisions will be found relating to confessions, conspiracy, search, and seizure of private documents, and on the right to their subsequent use in evidence. Finger-print evidence, a subject that has assumed importance in recent years, has received consideration, as has also trailing by bloodhounds.

The experience of the author of this edition has fitted him in an exceptional manner to edit a work on the trial of criminal cases. He has been assistant state's attorney in Chicago, special assistant to the attorney general of Illinois in the Rock Island vice and Chicago graft cases, and vice president of the American Institute of Criminal Law and Criminology, and president of the Illinois branch of that organization.

THE PRINCIPLES OF CORPORATION LAW. By William W. Cook $2.50

In this volume the author has endeavored to condense, simplify, and clarify the law of corporations. It has been his aim to state the general principles with a few applications, and with footnote references to more elaborate textbooks and to the decisions of the Supreme Court of the United States. The references are largely to the eighth edition of Mr. Cook's six-volume work on Corporations. References to very recent decisions are also added. The text has been ably and carefully prepared. The book is handsomely printed and has 790 pages of text.

Build Your Library on a Definite Plan.

THE OLD YELLOW BOOK. By John Marshall Gest, Judge of the Orphans Court, Philadelphia. (The Chipman Law Publishing Co., Brookline, Boston, Mass.) .. $7.00

The Old Yellow Book is a collection of legal pamphlets relating to the trial of Guido Franceschini, with four associates, for killing his wife, Pompilia, and her parents. Incidentally it discusses a prosecution for adultery brought by Guido against his wife and a claim made for her estate. The trial took place, in 1698, in the Court of the Governor of Rome. The defendants were found guilty and executed. Reference to the case is found in contemporaneous Italian legal literature. The pamphlets contain the arguments or briefs of counsel for the prosecution and defense. They were delivered in two stages, first as to the infliction of torture to obtain fuller confessions, after which the second stage began.

This book tells what can be learned of the law and lawyers of that time; the actual facts of the case as they appear in the record; the law that was applicable to them; the counsel on both sides; and the legal procedure in effect in Italy at the time, including particularly torture which was such an important part of it. The author gives in full the arguments of counsel according to his own translation, collating them from the various pamphlets, and arranging them in their logical order; adding to the arguments the references to the authorities, which he has verified from the original sources, with extracts from the most important of them. He adds his own comments on the facts and the law of the case, and Browning's treatment of them in The Ring and the Book, which is based on the Old Yellow Book.

THE PHILOSOPHY OF LAW. By Roland R. Fouke of the Philadelphia Bar. (John C. Winston Company, Philadelphia.)

The author defines the proper field of the philosophy of law as the explanation of the operation of the external factors of political power and public opinion in determining human conduct. He believes that all other matters frequently included in legal philosophy belong to sociology, ethics, political science, etc. He points out objections to some of the definitions and ideas which are of frequent occurrence in legal philosophy, and discusses in separate chapters conduct and factors determining conduct, political power, and jurisprudence.

The writer presents his subject in a brief and concise manner. His thoughtful little treatise is worthy of careful study. It is a condensed statement of the essential nature of law.

The Illinois Law Review for March, 1925, contains a valuable article by O. R. McGuire, Esq., on the question whether the accounting officers of the United States are bound by judicial precedents, and if not, the extent to which they should follow judicial precedents in the settlement of claims for and against the United States.

Mr. McGuire has also contributed to the American Law Review for January-February, 1925, a well-prepared paper on "Mandamus and Disbursing Officers of the United States."

"THE DISTINCTION BETWEEN GOVERNMENTAL AND PROPRIETARY FUNCTIONS OF MUNICIPAL CORPORATIONS" is discussed by Delmar W. Doddridge, Esq., in an able article in the Michigan Law Review for February, 1925. He writes: "Looked at in the light of abstract justice, there seems to be no good reason why the municipality which has been guilty of an act for which a private concern would be liable should not be required to compensate the injured party. Certain it is that the plaintiff who has been run down by a truck owned by the fire department may be as badly hurt as he who is run down by a truck owned by the waterworks department. . . .

Considering the distinction as applied to the whole law of municipal corporations, it would seem in the majority of cases to be more productive of litigation than of justice. It is justified in the case of eminent domain, and possibly in the alienation cases; but in the other instances where it is applied, it is difficult to see how any real benefit is derived."

The Charge. In scraps Jim's wife won every round,
Had strength and great agility,
And so he left her on the ground
Of "in-combat-ability."
—Boston Transcript.

When the Emptor should Caveat. It was a case involving the sale of a venerable automobile that did not come up to the expectations of the purchaser. The attorney for the defense arose and addressed the bench. In concluding his argument, he stated, "Your Honor, there is an old doctrine that has been handed down from remotest antiquity. Your Honor knows it well. It is the doctrine of caveat emptor. Now I believe that your Honor will agree with me that, if there ever was a time when the emptor ought to caveat, it's when he's buying a 1902-model Ford." He won his case.

Only a Groundling. It has just been ruled that the Archbishop of Canterbury has no jurisdiction over marriages solemnized in the air. Then what's the use of regarding him as our chief sky pilot?
—The Passing Show (London).

The Strategist. "Stop!" ordered the man in the road. "You are exceeding the speed limit!"

"That's all nonsense," retorted Blank, bringing his car to a standstill.

"That's what they all say," said the other, climbing into the car. "You can tell your story to the magistrate at Hickville, jest 7 miles up the road."

The trip was made to Hickville in silence. When the car drew up in front of the courthouse, the man got out. "Much obliged for the lift," he said. "You can settle that matter with the magistrate if you want to. As a stranger in these parts, I don't think my word would count for much."
—Boston Transcript.

The Power of the Press. Some north-country folk invoke the aid of the press before turning to the police for help in time of trouble. The following was inserted in the classified advertising columns of a recent issue of the Chateaugay Record:

"Lost—A goose. Last seen Saturday night going west on Main street, accompanied by ——— and ———. If the goose is not returned or settled for, these blanks will be filled in with the names in next week's Record."

A Mystery Solved. Inquiring Friend: "Why must a judge look so impassive?"

His Honor: "If you show any signs of interest in a lawyer's argument he'll never stop."
—Louisville Courier-Journal.

Piscatorially Appraised. Applying for a divorce, an old Georgia negro said to the judge: "Hit only cost me a string er fish ter git married, jedge; but Lawdy, jedge, I'd give a whale ter git rid er her."
—Boston Transcript.

By Way of Explanation. A lawsuit was recently in full swing, and during its progress a witness was cross-examined as to the habits and character of the defendant.

"Has Mr. H—— a reputation for being abnormally lazy?" asked counsel briskly.

"Well, sir, it's this way—"

"Will you kindly answer the question asked?" struck in the irascible lawyer.

"Well, sir, I was going to say it's this way: I don't want to do the gentleman in question any injustice, and I won't go so far as to say, sir, that he's lazy, exactly; but if it required any voluntary work on his part to digest his food, why, he'd die from lack of nourishment, sir."

—Rochester Herald.

Compensation Law Inapplicable. Workman: "Mr. Brown, I should like to ask for a small raise in my wages. I have just been married."

Employer: "Very sorry, my dear man, but I can't help you. We are not responsible for accidents which happen to our workmen outside the factory."

—Northern Daily Telegraph.

Not to be Caught Twice. There was a queer old custom in England that compelled a person, when making a certain kind of statement, to add, "except the mayor." Foote, the comedian, having remarked at an inn, "I have dined as well as anyone in England," the landlord prompted him, "Except the mayor." "I except nobody," said Foote boldly. For this the landlord had him haled before a magistrate who fined him a shilling for not conforming to the ancient custom. Foote paid the shilling, at the same time observing that he thought his accuser "the greatest fool in Christendom—except the mayor."

—Boston Transcript.

A Sherlockian Deduction. "How'd you come to raid that barber shop?" asked the chief of the dry agents.

"Well," replied the dry agent, "it struck me kind of funny that so many men should buy hair restorer from a bald-headed barber."

—Cincinnati Enquirer.

Current Fun. "They tell me that case was full of interest."

"It was full of everything. The witnesses were loaded and the jury was packed."

—Baltimore American.

A Canine Speedometer. The city motorist was indignant. "How do you know I was exceeding the speed limit when you haven't a watch or anything?" he demanded.

"Wal, ye seen that yaller dog a-chasing ye, didn't ye?" inquired the rural constable. "When that dog can't keep up with a feller I know that feller's goin' more'n 30 miles an hour, b'gosh!"

—Boston Transcript.

When Silence is Not Consent. Judge Pound remarks in Nankivel v. Omsk All Russian Government, 237 N. Y. 150, 142 N. E. 569: "Acquiescence will not be inferred from the silence of the dead."

The Ins and Outs of the Matter. In a gambling prosecution it became material to prove the manner of ingress and egress from the alleged gambling hall. The prosecutor interrogated a negro witness: "Emanuel, tell us how people got in and out of that gambling place." Witness replied, "Well boss, some got in with money and some got out broke."

Court Clothes. "I want you to make the outfit for my trial."

"Let me see," mused the experienced modiste. "You'll want a direct-testimony suit, a cross-examination gown, and something dainty and clinging to faint in."

—Heywood Advertiser.

An Irresistible Impulse. "One day . . . when my rheumatism was bad, . . . and my daughter had just eloped with a good-for-nothing scalawag, . . . and fire had destroyed my barn . . . and roasted a fine horse that I hadn't paid for, . . . and my best hog had up and died with the cholera, . . . and they had foreclosed the mortgage on me . . . and the sheriff was looking for me with a warrant, . . . I told my troubles to one of these here optimists and he said: 'Cheer up, old man, the worst is yet to come.' . . . So I shot him."

—Country Gentleman.

Too Close Home for Comfort. A colored janitor noticing a crowd gathering around the door of a savings bank joined the worried throng. A man who had once employed him stopped as he was going by, and said: "What's the matter, Sam? Did you have some money in that bank?"

"Every bit I had in the world, Mistah Jones," replied the janitor. "It makes me feel awful bad to lose it."

"You should take the matter calmly," commanded the other man. "Did you never hear of a bank bursting before?"

"Yes, sah," replied Sam with emphasis, "but dis one done busted right in mah face."

—Boston Transcript.

Horse Sense. Hiram Snickleby, a New England horse dealer, sold a horse to an expressman who, however, returned in a day or two with the statement that he was not exactly satisfied with his deal. He was asked the reason for his dissatisfaction.

"There's only one thing I don't like about this mare," he said. "She won't hold her head up."

"Oh, that's only her silly pride," exclaimed Hiram. "She will when she's fully paid for."

—Judge.

Not So Dumb. When the Earl of Bradford was brought before the Lord Chancellor to be examined on the application for a statute of lunacy against him, the question was asked him from the woolsack:

"How many feet has a sheep?"

"Does your lordship," answered Lord Bradford, "mean a live sheep, or a dead sheep?"

"Is it not the same thing?" said the Chancellor.

"No, my lord," returned Lord Bradford. "There is much difference; a live sheep may have four legs, a dead sheep has only two; the two forelegs are shoulders, but there are only two legs of mutton!"

—Yorkshire Post.

The Grantor's Status. The lawyer, after dictating certain requirements on an abstract of title, was much surprised to read the following requirement: "State whether or not the grantor was married or singed on the 22d day of March, 1918, at the time he executed said conveyance."

What She Resented. Haled into court for assault, a London "lidy" gave her version of the scrap, as follows: "It was like this, your worship. She says to me, 'You're no lidy!' she says and I smiled contempshus. Then she says, 'You're an outrageous female!' she says and I larfs scornful like. And then, 'You're a woman,' she says, an' I lets her 'ave the soapsuds in her fice. Ow'd you like to be called a woman, yer Worship?"

—Boston Transcript.

What He Lacked. A fat man who was headed for the depot four blocks away stopped a moment on a corner to mop his beaded brow. Puffing heavily he inquired of a policeman standing by if he had time to catch the 3:45 train. The officer consulted his watch. "You've the time, all right," he replied, "but I don't think you have the speed."

—Boston Transcript.